

MINUTES
JOINT PUBLIC HEARING - WAUKESHA COUNTY PARK AND PLANNING COMMISSION
AND THE WAUKESHA COUNTY LAND USE, PARKS AND ENVIRONMENT COMMITTEE
FOR THE WAUKESHA COUNTY DEVELOPMENT PLAN AMENDMENTS
Thursday, February 9, 2006, 9:00 a.m., Room 255/259

CALL TO ORDER

Mr. Kolb, Chairperson, Waukesha County Land Use, Parks and Environment Committee called the Public Hearing to order at 9:00 a.m.

Waukesha County Park and
Planning Commission Members
Present:

Mareth Kipp, Chairperson Walter Kolb
Pat Haukohl Walter Baade
Bob Hamilton (arrived at 11:15 a.m.)

Ellen Gennrich
Gary Goodchild

Commission Members
Absent:

Betty Willert

Waukesha County Land Use,
Parks and Environment Committee
Members Present:

Walter Kolb, Chairperson Bill Kramer
Pauline Jaske Scott Klein

Kathleen Cummings

Waukesha County Land Use,
Parks and Environment Committee
Members Absent:

Daniel Pavelko Vera Stroud

Staff Members Present:

Richard L. Mace, Planning & Zoning Manager
Kathy Brady, Secretary Supervisor
Mark Mader, Legislative Policy Advisor

• Guests Present:

Gerhardt and Agnes Tetzlaff	Jeff Ertl
David Donovan	Kent Hanson
Lewaune Hanson	Dan Habeck
Paul Dabey	Don Brue
Scott Bence	Chad Zesnanski
Jean Freuck	Herbert Werth
Claudine Setzke	Fred Plehn
George Erwin	Roger Duchow
Gary Lake	Dave Robinson
Will Robus	Dennis Robus
Michael A. Graff	Ralph Bergmann
John Lietzau	

• Public Hearing to Consider Amendments to the Waukesha County Development Plan.

Mr. Mace indicated the Public Hearing is the first step of a process that will take place during the next few months. The County Board has directed that Plan amendment requests are accepted annually, from communities or individual petitioners to consider changes to the Waukesha County Development Plan (WCLDP). The closing date for all requests was January 15, 2006. After the Public Hearing, the Waukesha County Parks and Land Use staff will formulate an opinion and recommendation on the issues and requests

and present it to the Waukesha County Park and Planning Commission and the Waukesha County Land Use, Parks and Environment Committee (LUPE). The Commission will review the recommendations from the staff for each amendment and discuss and decide whether they are in favor of or opposed to the requests. The Waukesha County Park and Planning Commission's decision is transmitted to the LUPE Committee who formulates its recommendation and drafts an Ordinance that will go to the Waukesha County Board regarding the various requests. After the Waukesha County Board's action, the appropriate changes are made a part of the permanent record and the WCLDP is amended as approved by the Waukesha County Board.

Mr. Mace asked if there were any questions regarding the process?

Chairperson Kolb asked if there were any other questions and there being none, he moved to the items noted on the agenda.

1. In the Town of Brookfield, the following requests are being made:

- A. ***S & T North Shore, LLC***, P.O. Box 347, Brookfield, WI 53008, requests their property located in part of the NW ¼ of the SW ¼ of Section 29, Town of Brookfield, (Tax Key No. BKFT 1123.997.004) be amended to revise one of the conditions of their 2005 Land Use Plan Amendment which limited the total number of dwelling units based upon the requirements set forth in the Waukesha County Shoreland and Floodland Protection Ordinance. The Shoreland Ordinance no longer applies to the majority of the site based upon a recent determination by the Wisconsin Department of Natural Resources that two (2) ponds located north and east of the subject site are not navigable public ponds, therefore, the Shoreland jurisdictional boundaries are not measured 1,000' from said ponds.

Mr. Mace indicated the property is located on the north side of Bluemound Road in the Town of Brookfield. Adjacent properties include the Elite Tennis Club, Pano's Restaurant, Motel 6, Quality Inn and Tire America. The site was included as a 2005 WCLDP amendment and the shoreland jurisdictional boundaries were measured 1,000' from a pond to the north, which was created in the 1990's without permits. Subsequently, the pond was deemed non-navigable by the Department of Natural Resources (DNR) and the berm which created it has since been removed and the pond is drying and reverting to wetland conditions. The 2005 amendment was based on the Shoreland Ordinance requirements, which determined the number of dwelling units for the project. Two other bodies of water were found to the east of the site and the DNR has determined those ponds to not be navigable, but are tributary streams, therefore, the Shoreland jurisdictional limits are 300'. The limit of 22 dwelling units placed on the property in 2005 was based upon the assumption that the water bodies were ponds, but the DNR's latest determination removes them from the 1,000' jurisdictional boundary and it is now 300' as measured from the streams. Chairperson Kipp asked, if a change is determined by the DNR, is there a method in which an adjustment could take place without the petitioner having to apply again, pay an additional fee and an additional public hearing having to take place? Mr. Mace replied, that he did not know of any way it could be avoided. The County Board acted and imposed specific restrictions and only they can remove them. Chairperson Kipp noted that the reason for the restriction is no longer there. Mr. Mace indicated he would consult with the Waukesha County Corporation Counsel on future issues of this type. Mrs. Jaske asked what land use category the property is located in and how many dwelling units the petitioner currently is asking for, to which Mr. Mace replied the High Density Residential category (less than 6,000 sq. ft. per dwelling unit) and they are requesting a change from 22 to 32 dwelling units, which is approximately 6,058 sq. ft. per dwelling unit.

Chairperson Kolb asked if anyone from the audience wished to speak on the matter? Mr. Habeck from Kramer, Multhaff and Hammes, representing the petitioner, indicated they would continue to work with the County and Town on the proposed development. He said the petitioner is requesting 32 dwelling units, and felt the development was appropriate for the property and would be a good transition use to the residential areas further to the north. Mr. Mace suggested the Committee and Commission receive a copy of the letter from the DNR stating their determination of the pond navigability and status.

No other comments were made.

- B. ***J.B.J. Development Company***, for property owned by the Town of Brookfield in the NE ¼ of the SW ¼ of Section 29 (Tax Key No. BKFT 1123.977.003) requests a modification to the conditions imposed on the property in the 2005 Land Use Plan Amendment relating to the 1,000' Shoreland jurisdiction from the aforementioned public bodies of water on the lands to the west of the subject site, which are no longer classified as public water bodies, reducing the County Shoreland jurisdiction to only the floodplain on this property thereby eliminating the issue of residential density as it relates to the Waukesha County Shoreland and Floodland Protection Ordinance. The petitioner is proposing a density of 64 units, which is consistent with the Waukesha County Development Plan. The second condition that the petitioner asks to be revised is the access requirement to Janacek Road and that Elizabeth Court be gated and used for emergency purposes only. It is the petitioner's request that this condition be eliminated. A third condition is requested to be modified regarding building height.

Mr. Mace indicated the property is owned by the Town of Brookfield who would like to sell it to J.B.J. Development, LLC. Adjacent properties include the Brookfield Town Hall and garage, Funworld, Children's World and Bartz Displays and approximately five or six single-family residences to the north. Issues surrounding the 2005 WCLDP amendment included density (no more than 55 dwelling units), building height and ingress and egress. At the time, the County required a connection be made to Janacek Road for access because where Elizabeth Court and Bluemound Road intersect, there is no direct median crossing and it is deemed unsafe and unacceptable by the Staff and the Waukesha County Board of Supervisors. There was discussion if the median could be moved or an "S" curve could be placed on Elizabeth Court linking the median crossing across Bluemound Road to Elizabeth Court, both of which the DOT was not in agreement with and the Staff would be supportive of adding more property to access the location.

Three multi-family buildings are proposed in a "U" shape and there was, and continues to be concern with the height of the building to the north and it was suggested that it should be reduced to two stories from three stories. The Developer is in agreement with reducing the height of the building to the north. Mr. Mace noted there is a good vegetative buffer along the north property line, which would provide screening for the residential properties to the north. The Town also planted trees to the rear of the town garage, which are effective in screening the properties to the north and the Developer has also agreed to extend the same type of vegetative screening westerly along the north property line. The north building would be located approximately 100' to 120' south of the property line and would consist of two stories, with one level of underground parking. Based on the Shoreland Ordinance, which affected the property due to two ponds, density would have been limited to 8,000 sq. ft. per unit, which was a condition on the 2005 amendment. Mr. Baade asked if there would be underground parking, to which Mr. Mace replied, "Yes". Chairperson Kipp asked if the development would stay out of the environmental corridor? Mr. Mace answered, "Yes". Mrs. Haukohl asked how the Butler Garter snake habitat is being addressed and if any restrictions would be placed on the property? Mr. Mace responded that the Developer has been dealing with the DNR about the issue and pointed out a detention basin on the aerial photograph, which is part of the snake habitat area and noted that it would be left alone and some of the lower cut areas will be restored to a non-mowed condition to facilitate

more snake habitat. Mrs. Haukohl asked if the City of Brookfield has any type of objection authority over any access to Bluemound Road? Mr. Mace replied, “No”. Chairperson Kipp asked if the development would be sewer and water. Mr. Mace responded, “Yes”.

Mr. Lake, Town of Brookfield Building Inspector/Administrator, commented on the realignment of Elizabeth Court. He noted, the proposal has been under consideration for over a year and numerous discussions have taken place between County Staff, DNR and the DOT regarding the alignment. The DNR determined there are high-quality wetlands, which would make the realignment impossible and unacceptable. The Town met with the DOT last week and inquired if there would be any available DOT assistance in working with the DNR to realign Elizabeth Court. The DOT contacted the DNR and indicated the realignment would most likely not happen. The Town expressed concerns regarding the primary access to the site being solely across the Fire Department’s parking lot and would prefer the primary access off of Elizabeth Court but are willing to consider a compromise where the Elizabeth Court access would be allowed for “right in, right out” turns only for westbound traffic and a secondary available access would be allowed to Janacek Road to accommodate eastbound traffic. Mr. Klein said that currently the Elizabeth Court access is “right in, right out” only, because there is no median crossing and wondered how, by designating it “right in, right out” would solve the problem. Mr. Lake said it would prohibit crossovers. Chairperson Kipp wondered how access through the Town Hall parking lot would interfere with the fire trucks leaving the Fire Department.

Mr. Bence from J.B.J. Development, presented the original Site Plan for the project and noted that one story of the north wing has been eliminated which addresses the height issue, hard surface asphalt has been removed and the building has been rotated approximately 40’ resulting in the building being parallel to the lot line. They are also willing to extend the plantings for additional year round screening along the north lot line. Chairperson Kipp asked if Janacek Road would be the primary access? Mr. Bence replied, the Site Plan shows the improvements from last year but an additional concern is that they do not want to have Elizabeth Court gated but rather have a “right in, right out” onto Bluemound Road. A traffic study was completed reviewing the site, the turning movements and the existing conditions at the surrounding intersections and medians. Based on the study, all of the intersections will operate at the same level of service, which they are currently and below their capacity. The residents of the proposed development and traffic from the north or south will not notice any additional time delays at the intersection. According to the DOT, there is no accident record for the median at Elizabeth Court during the past nine years. With regards to the Butler Garder snake habitat, they are working closely with the DNR and have submitted a habitat assessment and the area is considered a Tier 3 (highest quality) habitat. The plan, as submitted, will not impact the snake habitat and the proposal complies with the current regulations. Chairperson Kipp asked who would own the environmental corridor? Mr. Bence replied, the homeowner’s association, with a preservation easement for the snake habitat. The Waukesha County Land Conservancy has also expressed interest in an easement or possible ownership. Mr. Klein asked if the parcel was currently owned by the Town? Mr. Bence responded, “Yes”.

Ms. Setzke, adjacent property owner, said the neighbors from the subdivision to the north are not against the development of the land. They expressed concerns regarding the height of the buildings and how the density would affect the value of their homes. She pointed out on the Site Plan that although the top level of the north building has been eliminated, the bottom level of underground parking remains and the building would be the same height. Another concern is that DWB Investments (same as J.B.J. Development) purchased the last unbuildable tax deed lot on Briar Ridge Drive connecting to the development. She indicated that they had contacted the DNR who said there could be a possible road use on the lot if access is denied to Janacek Road. The neighbors are extremely concerned because over the past 30 years the Town would not allow any developer to have access to Janacek Road for safety reasons. Their concerns are that the development would connect a road through their subdivision. The residents would also like to see the development configured better so their view is not completely obliterated by the proposed development. She added that all of the

Town Board meetings have been in closed session regarding the road issue and the neighbors cannot receive any information. Ms. Freuck, adjacent property owner, expressed concerns regarding a potential road connection at the curve of Briar Ridge Drive (tax deed lot). She indicated there are many pedestrians who walk on the road and is concerned with the safety of the residents and neighborhood children.

Mr. Bence responded to Ms. Setzke and Ms. Freuck's concerns. He indicated there have not been any secrets, however, information has been delayed due to slow responses from the DNR. The adjacent undevelopable tax deed lot (mostly floodplain) was purchased for possible mitigation or extra open space for the snake habitat by one of J.B.J. Development's holding companies. He said that he had spoken with the adjacent lot owner (of the unbuildable lot) who also expressed interest in purchasing the property and indicated if J.B.J. Development does not use the land for preservation with the DNR, they would sell the lot to him. In addition, they have no intention of placing a road through the lot. The Developer would like to meet with Ms. Setzke and any concerned neighbors to answer any questions to help the situation. Ms. Setzke reiterated the neighbors are not against the development itself, however, the Town will not give them any information and the residents are concerned.

Mr. Mace said the Site Plan indicates two underground levels of parking for the north building and asked if there would be stacked parking? Mr. Bence replied, "No", the original design was for two levels of parking, however, the lower level has been reconfigured and the second level of parking has been eliminated so there would be only one level of parking. Mr. Mace asked what the maximum height relative to mean sea level would be for the north building vs. the south building? Mr. Bence replied, that he was unsure but would supply that information to Mr. Mace as soon as possible. Mrs. Jaske asked how much land is the Waukesha County Land Conservancy interested in taking over and how is the density figured? Mr. Mace replied that last year the wetlands and upland were to be dedicated to the Town, however, currently that is not the case. He explained, the density is calculated on the gross land area and if some of the lands are dedicated for any reason they could not be developed by another agency. Mr. Klein added, that currently, the land is owned by the Town not the Developer, and using Town owned land and the environmental corridor to calculate the density and then giving the land back to the Town is not acceptable to him. If the Town never had sold the environmental corridor in the first place the density would be reduced. Chairperson Kipp asked if the garage is being counted as the first level? Mr. Bence replied "No". He further explained, the north building will have two levels of living units and the south and east buildings would have three levels. He also said he did not think the ownership of the environmental corridor would go back to the Town because there has been interest by other groups such as the Waukesha County Land Conservancy and the DNR. Mrs. Gennrich said with regard to the snake preservation, it requires management and the Town does not have the capacity to do so. She noted that it would be better if some agency that has the capacity, desire and knowledge be given management control for the endangered species. Mrs. Jaske asked if J.B.J. Development owns the building site? Mr. Bence answered that currently, the Town owns the entire property, which consists of one 18-acre lot. He indicated there is nothing in writing that the Town would buy back any portion of the property. Mrs. Gennrich suggested that someone speak to the Commission, Committee and County Board regarding the Butler Garder snake and its habitat requirements at a future meeting.

No other comments were made.

- C. ***The Town of Brookfield***, has requested a number of amendments to the Land Use Plan categories relative to various locations throughout the Town and the proposed land use categories vary and include the locations as follows and are located and identified on the attached map:

1. The old landfill north of Capitol Drive from Low Density Residential (LDR) to Recreational.
2. Two (2) parcels on North Springdale Road north of Watertown Road from Transportation, Communication and Utilities to Commercial.
3. A residential parcel to the east of Sam's Club from Industrial to Commercial.
4. A number of parcels fronting on the east side of Barker Road north of the tennis club to Larkspur Drive from LDR to Medium Density Residential (MDR).
5. A number of residential parcels on both sides of Brookfield Road north of Wisconsin Avenue from LDR to MDR.
6. The Regency Care Facility on the west side of Brookfield Road from MDR to Institutional.
7. The existing senior living project immediately south and adjacent to the Regency on the west side of Brookfield Road from MDR to High Density Residential (HDR).
8. An existing parcel on the south side of Wisconsin Avenue west of Woelfel Road, which presently contains a multi-family structure from MDR to HDR.
9. The Wynwood House Assisted Living Facility on the southeast corner of Wisconsin Avenue and Woelfel Road from MDR to Institutional.
10. Six (6) parcels on the southeast side of East Moreland Boulevard (U.S. Highway 18) across from Stein's Garden Mart from Commercial to Commercial (Office).
11. The Hulbert Hills, Dale's Acres, Kossow, Westbrooke I and II Subdivisions, all located along both sides of Kossow Road and on both sides of Davidson Road from LDR to MDR.
12. The Brookfield Highlands Senior Apartments on the north side of Davidson Road, east of Kossow Road from MDR to HDR.
13. The mixed industrial office uses south of Bluemound Road, north of I-94 and on both sides of Janacek Road from Industrial to Commercial (Office).
14. The three single-family residential parcels on the east side of Brookfield Road north of Follet Drive from LDR to MDR.
- 15a. The residential parcel east of Janacek Court and north of I-94 from LDR to MDR.
- 15b. The apartment buildings on the west side of Brookfield Road immediately north and adjacent to I-94 and south of Deer Creek from LDR to HDR (corrected from the Town's request).
16. Various parcels along Greenfield Avenue, on the north side adjacent to Weston Hills Subdivision and a single residential parcel on the northwest corner of Barker Road and Greenfield Avenue from MDR to Commercial.

Mr. Mace said that the Town of Brookfield presented maps showing the various locations along with details of the proposed amendments for each parcel. The only public comment on the abovementioned amendments was from the City of Brookfield, which corresponded with the County stating that they had reviewed the proposals and expressed concern regarding Item No. 16 above. There are three lots next to Weston Hills Subdivision, two of which are presently occupied by residences and one is vacant. Another lot is located on the northwest corner of Barker and Greenfield Roads, which is proposed to be changed from residential to Commercial. The City expressed concerns and opposition regarding the three lots abutting the Weston Hills Subdivision and also noted that Greenfield Avenue is in the process of being reconstructed. Mr. Mace pointed out on the aerial photograph, the boundaries of the City and Town of Brookfield and the location of the three parcels mentioned above. Chairperson Kipp asked if the amendment was an extraterritorial issue with the City? Mr. Mace replied, "No", and indicated that they are commenting as any other person or agency may

comment. Mrs. Gennrich asked if there were other Commercial uses to the west? Mr. Mace answered, “Yes”, and noted there were mixed uses (a restaurant and office type uses) along Greenfield Avenue. Mrs. Haukohl asked if the two residences were interested in the properties being changed to the Commercial category? Mr. Mace responded, that he was unsure. Mr. Lake said that west of the Silver Spur restaurant there is a single-family residence. Continuing west, there is a dental clinic in a former residential structure and the rest of the land to Barker Road is vacant. The vacant parcel on the east end of the three-lot grouping is being acquired by the State Department of Transportation for a stormwater detention pond, as part of the Greenfield Avenue project. Mrs. Gennrich asked if the parcel had to be Commercially zoned? Mr. Mace asked if the property owners asked for the amendment to the Commercial category? Mr. Lake replied, “No”, the Town Plan Commission requested the amended changes. Mrs. Haukohl asked if the property owners were notified? Mr. Mace said he had spoken with one of the property owners regarding the amendment. Mr. Lake replied, the neighbors were not officially notified, however, a public informational meeting was held and the information has been on the Town’s web site for the past two months. He said no written or verbal comments objecting to the proposed amendment have been received.

Mr. Mace asked in regards to Item No. 4 above, what motivated the Town to change the category from the Low to the Medium Density Residential category? Mr. Lake replied, there were concerns voiced from the single-family residential property owners residing on Barker Road. Below the grouping of properties, a condominium development is currently being proposed and prior to that there was a previous rezone request to change the parcel to the Commercial category and several of the property owners to the north indicated if that parcel changed, then their properties should also be changed to the Commercial category. Since the rezone to Commercial did not occur and is currently being developed as multi-family, the Plan Commission felt changing to the Medium Density Residential category was appropriate. Mr. Klein said most of the proposed amendments are increasing the density. Mrs. Gennrich expressed concerns that the neighbors of the proposed amendments are not notified of the public hearing, to which Chairperson Kipp agreed. Mr. Mace said the notice issue has been discussed for future amendments, however, additional monies would be needed in order to make the notifications. Chairperson Kipp wondered why the Town couldn’t notify the neighbors. Mr. Mace added that Town’s are exempt from any fee’s for the amendments, however, if a Town would request an amendment in which 1,000 or so persons need to be notified the Town may need to be charged for the amendment request. Mrs. Gennrich expressed concerns that if there is a request for a zoning change, a public hearing is scheduled and the neighbors are notified. If the property conforms with the Waukesha County Development Plan, the rezone most likely would be allowed. Mr. Klein asked if the Town held public hearings on the Land Use Plan changes? Mr. Lake replied, “No,” but reminded the Committees of the informational meeting. Chairperson Kipp wondered if the petitioner could be responsible for notifying the neighbors. Mr. Mace said it is an issue, which needs to be addressed in the future.

No other comments were made.

2. In the Town of Delafield, the following requests are being made:

- A. ***Kent and Lou Hanson***, request property owned by them in the SE ¼ of Section 28, Town of Delafield (Tax Key No.’s DELT 0832.013.017, DELT 0832.997, DELT 0832.998 and DELT 0832.999.004) be amended from the Rural Density Residential and Other Agricultural Lands (RDROAL) category to the Suburban I Density Residential (SDRI) category for the development of a residential housing project, including a total of 29 dwelling units.

Mr. Mace indicated the properties are located on the east side of S.T.H. 83, south of I-94 in the Town of Delafield. Surrounding land use categories include SDRI, RDROAL, Governmental/Institutional (church), LDR and environmental corridor. The petitioner is proposing to develop four parcels for a duplex/condominium project and single-family lots and the change would include all of the non-environmental corridor portions of the property resulting in a total of 29 dwelling units.

Mr. Hanson, petitioner, said he purchased the land in 1993. The proposed condominiums would be located on the two parcels to the north and the additional lots are off of Paradise Valley Court (currently a private road). Mr. Hanson's driveway to his current residence also is off of Paradise Valley Court. Mrs. Gennrich asked if the DOT has granted access to S.T.H. 83? Mr. Hanson replied, "Yes", the access would be directly opposite Twin Oaks Drive and acceleration/deceleration lanes are currently there. He said, the driveway from Kettle Moraine Evangelical Church is an easement on his property, which he granted to the church. The church driveway will stay and access will connect to the driveway. Mrs. Gennrich asked if there were any issues accessing the condominiums to the south? Mr. Hanson, replied the hill in question is driveable and not that steep. He pointed out on the plan the locations of the buildings, and noted that five condominiums would be located to the south and four building to the north. Mrs. Haukohl asked if the lands to the south were vacant? Mr. Hanson, said that a marsh is located to the south and Scuppernong Creek also flows through the property. He indicated he would like to retain the open lands in his personal ownership. Other questions concerning development details, the stream and the pond status were discussed.

No other comments were made.

Mr. Hamilton arrived at 11:15 a.m.

- B. ***Turning Leaf Development, LLC, c/o Dennis Robus***, requests their land, located in the NE ¼ of Section 15, Town of Delafield (Tax Key No. DELT 0777.996) be amended from the SDRI and Isolated Natural area to the Low Density Urban Residential (LDR) category to accommodate nine (9) residential dwelling units on 8.5 acres.

Mr. Mace indicated the property is located off of Maple Avenue in the Town of Delafield. A proposed Development Plan has been submitted showing four, two-family type structures and a single-family residence. Mr. Robus, petitioner, said the Isolated Natural Resource area located to the south would not be altered in any way. The entire area would be used in the calculation for the density. The elevation of the site is approximately 80' to 90' above the surface of Pewaukee Lake. The intent is for the buildings to be integrated into the present topography and the property will not be level graded. He felt it would make a good transition from the 1½-acre density units in the nearby Hawksnest Subdivision. Mr. Baade asked about the driveway to the north? Mr. Robus replied, the driveway connects with an easement to the northern corner lot. Mr. Mace asked (with regards to an adjacent property owner who seemed to be encroaching on the subject site) what they intend to do about the adjacent neighbor encroachment? Mr. Robus said they would work with the neighbor to move him off of the site. Mr. Robus (son) pointed out the access to the property from Maple Avenue, which ties into the existing driveway. Mr. Mace pointed out on the aerial photograph a residence on the property and asked if it was in poor condition? Mr. Robus replied it is an uninhabitable cement block structure built in the 1950's. Mr. Hamilton asked if anyone occupies the house? Mr. Robus answered "Yes"

No other comments were made.

3. In the Town of Genesee, the following requests are being made:

- A. **Donald J. Murn**, requests his land located in part of the SW ¼ of Section 25, and the NW ¼ of Section 36, Town of Genesee, (Tax Key No. GNT 1539.988) be amended to revise previously imposed conditions on his 2005 Land Use Plan Amendment to allow the development of a more conventional development pattern rather than a cluster concept as previously required.

Mr. Mace indicated the property is located on C.T.H. “X” in the Town of Genesee. The site was included in the 2005 WCLDP amendments, at which time, the petitioner’s proposal was for a cluster concept development. One of the 2005 conditions was that the project be developed as a residential cluster/conservation design. The petitioner is currently proposing a conventional three-acre layout rather than the cluster with 11 lots (3 acres). Chairperson Kipp said the petitioner’s application states he could not justify the number of lots and also contain stormwater. He felt fewer lots with building envelopes will allow the engineering of rain gardens and better protection of the watershed with less impervious surface. Mrs. Haukohl asked if there would be the same number of lots, to which Mr. Mace replied, previously 21 to 25 lots were requested and currently 11 lots are being requested.

No other comments were made.

- B. **Amy and Paul Dabey**, request a change in the Land Use category for their property located in the SW ¼ of Section 11, Town of Genesee (Tax Key No. GNT 1483.997) from the RDROAL category to the LDR category, for the creation of two (2) lots, one being a duplex and one being a future single-family residential lot.

Mr. Mace indicated the property is located on Sunset Drive in the Town of Genesee. The petitioner is proposing to divide the existing lot to create two lots, one for the present duplex and one for a proposed single-family residence. Mrs. Gennrich asked what the size of the parcel was, to which Mr. Mace replied, 2.06 acres. Mr. Mace indicated the petitioner applied for a variance in August 2005 to allow the land split which was approved with conditions. Conditions of approval are as follows:

1. The lot cannot be divided until and unless the property is rezoned to the R-3 Residential District. Note: This will also require an amendment to the Waukesha County Development Plan.
2. If the property is rezoned to the R-3 Residential District, the lot may be divided by Certified Survey Map, but the lot containing the duplex must have a minimum average width of 180 ft. and the vacant lot must have a minimum average width of 120 ft.
3. The proposed vacant lot shall be used only for a single-family residence, not for an additional duplex.
4. Each unit of the duplex must meet the minimum floor area requirements, as set forth in the Conditional Use section of the Waukesha County Zoning Code, which are 900 sq. ft. for a one-bedroom unit, 1,000 sq. ft. for a two-bedroom unit, and 1,100 sq. ft. for a three-bedroom unit. Prior to the lot being divided, a floor plan, drawn to scale, of the duplex must be submitted to the Planning and Zoning Division staff for review and approval. If either unit does not meet the

above-stated minimum floor areas, the building must be modified so that each unit meets the above-stated minimum floor areas or a variance from minimum floor area requirements must be obtained, prior to the lot being divided.

5. Prior to the lot being divided, the commercial panel truck and the semi-trailer must be removed from the property or a Conditional Use for commercial truck parking must be obtained.

Mr. Baade asked if one additional residence would be created? Mr. Mace replied “Yes”. Mr. Dabey, petitioner, said the Town was in favor of splitting the property but they were concerned with the different average widths (180’ and 120’) and the lots being irregular. Chairperson Kipp asked, if the existing duplex is non-conforming. Mr. Mace responded, “Yes”. Chairperson Kipp asked if the category is changed, would the duplex be legal non-conforming? Mr. Mace answered that the duplex can be authorized in the R-3 Zoning District subject to the issuance of a Conditional Use Permit and if a Land Use Plan amendment is approved. The petitioner would also have to be granted a variance from the Waukesha County Board of Adjustment to allow a lot less than 180’ for the duplex lot. Mr. Dabey noted there would be one shared driveway to serve the two lots. Mrs. Haukohl asked if there would be a Driveway Agreement? Mr. Dabey replied “Yes”. Mr. Mace asked if the Town was present at the Board of Adjustment meeting, to which Mr. Dabey replied, “No”.

No other comments were made.

4. In the Town of Lisbon the following requests are being made:

- A. **Frederick Dahlke**, requests his property located in the SW ¼ of Section 36, of the Town of Lisbon (Tax Key No. LSBT 0287.994) be amended from the Residential and Light Industrial category to the Industrial category.

Mr. Mace indicated the property is located on Wilmar Road, near the border of the City of Pewaukee and the Town of Lisbon. Mr. Hamilton asked if the small triangular shaped parcel to the north of the property could also be included in the amendment to make the area consistent. Mr. Mace identified the property as being owned by the Donald and Joan Brue Trust. Mr. Hamilton asked if the landowner to the north would need to be notified to make the change? Mr. Mace said that Item “4 D” on the public hearing agenda is the request from Forest Home Investors, LLC for the Brue property and the two requests could be merged together. He said the land to the west is in the Industrial category and the railroad yard is located to the east. Mr. Brue, adjacent property owner to the north said that Forest Home Investors, LLC is purchasing his property and Mr. Dahlke’s property and wants to place them both in the Industrial category. In addition, Forest Home Investors, LLC owns the development on the west side of Wilmar Road and is looking for better access to Duplainville Road.

No other comments were made.

- B. **Mark Hertzfeld, Design 2 Construction**, requests property owned by Jeff Ertl located in part of the NW ¼ of the NW ¼ of Section 4 of the Town of Lisbon, (Tax Key No. LSBT 0158.994.007) be amended from the LDR category to the Commercial category to accommodate the development of a commercial building with access from C.T.H. “Q”.

Mr. Mace indicated the property is located near the Waukesha and Washington County lines in the Town of Lisbon. Nearby properties include a bank to the west, a church to the north, a cemetery and a gas station to the northwest. The petitioner owns the parcel to the east, which is currently located in the Residential category and is requesting this particular parcel also be placed in the Commercial category and added to his corner

Commercial property. A Development Plan has been submitted for a commercial development. Mr. Hertzfeld, petitioner, said the property to the north of his property (in Washington County) is a vacant church which has been sold and will be changed to a business use. All of the property around the church has also been sold and will become a subdivision. The DOT is in the process of redeveloping the intersection and it will either be a controlled intersection or a roundabout. If a roundabout is decided upon, the corner of the parcel to the east would be used and they will not be granted access off of S.T.H. 164. He pointed out on the Development Plan the location of the proposed building, stormwater, the access point and the septic area (mound). He noted, at the Town of Lisbon Plan Commission meeting there was no opposition from any neighbors and the Town approved the request. Mr. Goodchild asked if the lots would be combined by Certified Survey Map (CSM). Mr. Hertzfeld replied, “Yes”.

No other comments were made.

- C. ***Minett Properties, Inc.***, requests property owned by Dorothy Grochowski (Tax Key No. LSBT 0216.993), located in the SE ¼ of Section 18, on the east side of Lake Five Road in the Town of Lisbon, be amended from the RDROAL category to the LDR category to accommodate the development of a detached single-family subdivision with one acre lots.

Mr. Klein noted this request was also made with the 2005 amendments and was placed on hold because the Town of Lisbon Plan was not completed. Mr. Mace said, at this time, he does not have any information from the Town of Lisbon, however, they will be meeting next week to discuss the proposed amendments. The property is located on Lake Five Road near the Village of Merton line. Mr. Baade asked if the property is located in shoreland zoning? Mr. Mace replied, “Yes”. Mrs. Haukohl asked if the request was to change from five-acre density to one acre density? Mr. Mace responded, the request is to change to ½ acre to 1.5-acre lots. Mrs. Haukohl said the petitioner is requesting 15 lots on 15.5 acres. Chairperson Kipp said the request indicates the development would allow access to the Oakwood Subdivision and the Town of Lisbon Park. Mr. Goodchild asked if the Town of Lisbon has a border agreement with the Village of Merton? Mr. Mace replied, “Yes”. Mrs. Haukohl asked if there is any environmental corridor on the property to which Mr. Mace replied, to the northeast.

No other comments were made.

- D. ***Forest Home Investors, LLC***, requests property owned by Donald and Joan Brue Trust, located in part of the SW ¼ of Section 36, Town of Lisbon, (Tax Key No. LSBT 0287.995) be amended from the LDR category to the Industrial category to recognize the existing industrial zoning category on the property.

Mr. Mace noted the request was discussed previously (under Dahlke), and it was decided to merge the request with the Frederick Dahlke request (see Town of Lisbon request “4 A”, Frederick Dahlke).

No other comments were made.

- E. ***John Lietzau***, requests property owned by Colgate Investments located in part of the NE ¼ of Section 3 of the Town of Lisbon, (Tax Key No.’s LSBT 0153.998 and LSBT 0153.999) be amended from the RDROAL category to the LDR category to permit the development of approximately 40 to 50 residential condominium units.

Mr. Mace indicated the property is located on C.T.H. “Q” in the Town of Lisbon. A gravel pit is located to the south and the petitioner purchased the property from the owners of the gravel operation. There is wetland on the site. He noted that it was discovered there was a transfer without a CSM of the property, however, the petitioner indicated he took care of the problem with a proper CSM. Mrs. Gennrich asked if there was other multi-family residential located north of the property in Washington County? Mr. Mace said he was unsure. Mr. Hamilton asked if the property was sewer and water to which Mr. Mace replied “No”. Mr. Ralph Bergmann (design consultant for the project) said the proposed land use classification is appropriate and is compatible with the surrounding area. The property located to the west is in the RDROAL category, the property to the north is classified as $\frac{3}{4}$ acre per unit and to the south, environmental corridor serves as a natural buffer for the land to the south. He submitted a Development Plan for the project and noted the request is for a condominium development of 29 structures, containing 58 units. He indicated the setback area from the environmental corridor and wetland is substantial. The Town of Lisbon will consider the request on February 16, 2006. Mr. Baade asked about the farm to the east? Mr. Lietzau replied, the parcel in question was sold off and is a farm and the buildings would be retained and restored. The silos, however, will be removed. Mr. Mace asked what the buildings would be used for? Mr. Lietzau said the farm was a former dairy farm and the buildings are currently empty. Mrs. Haukohl asked, in its present land use category with 65 total acres how many units would be allowed? Mr. Mace replied “13 units”, but noted the farm to the east was sold. Mr. Hamilton asked what is recommended in the Town’s recently adopted Land Use Plan. Mr. Mace replied, five-acre density.

No other comments were made.

- F. ***Herb Gross***, requests his property located in part of the SW $\frac{1}{4}$ of Section 31 of the Town of Lisbon (Tax Key No. LSBT 0268.999) be amended from the RDROAL category to the LDR category to allow the development of a single-family detached residential development.

Mr. Mace indicated the property is located on Lynndale Road in the Town of Lisbon. There was an amendment request for the property in 2004 or 2005. There are significant issues concerning the access to the site. He further explained the development only has access to Willow Creek Drive and the Town has issues with the development having only one entrance. The petitioner is exploring the possibility of rebuilding C.T.H. “JK” to accommodate a safer entrance than under the present conditions. Mr. Erwin, representing the petitioner, said the main issue is access to C.T.H. “JK” and the DOT would allow one access point as long as it meets the criteria of the Waukesha County Highway Access Ordinance including acceleration and deceleration lanes. The current category is five acres and the request is to change to the LDR. Properties to the west, northwest, east and the southeast are located in the LDR category. The requested density is approximately 30 units on the 90.7-acre parcel. Mr. Mace said the recently submitted plat, which was rejected, contained approximately 28 or 29 lots. Mr. Erwin indicated the petitioner has not submitted another plan because the issues of the land use category change and access to C.T.H. “JK” need to be satisfied first.

No other comments were made.

5. In the Town of Merton, the following requests are being made:

- A. ***The Town of Merton Plan Commission and Town Board***, requests the previously adopted Comprehensive Land Use Plan from 1981 and most recently amended in 2005 entitled “The Town of Merton Comprehensive Land Use Plan 2020”, be incorporated into the Waukesha County Development Plan.

Mr. Mace indicated the request was withdrawn from the agenda for further consideration.

- B. ***Harmony Homes, Inc.***, requests property owned by Gerhardt and Agnes Tetzlaff (Tax Key No. MRTT 0358.999), Randolph and Debra Richter (Tax Key No. MRTT 0358.998.003), Michael Graff (Tax Key No. MRTT 0358.998.002) and Herbert Werth (Tax Key No. MRTT 0358.998.004) located in the NW ¼ of Section 18 of the Town of Merton, be amended from the RDROAL category to the Suburban II Density Residential category to permit the development of an open space cluster concept, single-family residential development for approximately 21 residential units on 73.9 acres of land.

Mrs. Haukohl asked if the property is 73.9 or 81.7 acres in size because the map and the public hearing notice are different? Mr. Mace replied the area of change is 81.7 acres and the development would utilize 73.9 acres, with two, three plus acre lots being set aside. Mrs. Haukohl asked if the land contained prime agricultural soils? Mr. Mace answered that the majority of the site contains prime agricultural soils. According to the layout plan submitted, a total of 21 lots are being requested with 43 acres or 58% being open space. The Union Pacific Railroad is located on the north side of the development. Chairperson Kipp asked if they would be single-family lots, to which Mr. Mace replied, "Yes". Mr. Zesnanski, from Harmony Homes introduced himself and indicated the development would contain a 3.5 acre density, 58.2% open space, that the access including visibility requirements have been met and stormwater management including detention ponds have been considered and there are two recent developments to the north which are a similar cluster type density. He said the lots would be 1 to 1¼ acre in size. Mr. Robinson, adjacent property owner said his farm is located directly west (across Town Line Road) and downhill of the petitioner's property. He expressed concerns regarding stormwater runoff and control. He pointed out the location of a culvert and requested that it not be used to divert water onto his property. There was discussion regarding Mr. Robinson's land being flooded because of the culvert. Mr. Goodchild said when the subdivision is designed, berms could be built or the culvert could be removed and the water could be diverted to the retention ponds. Mr. Zesnanski said he understood Mr. Robinson's concerns and has no intention of letting any water drain onto the neighbor's property and would speak to the engineer's to address the issue during the design. Mr. Klein said the pond must have an outlet and by saying no amount of water would be directed onto Mr. Robinson's property would be too restrictive. Mrs. Haukohl said the intention is to keep the water on the parcel. Mrs. Gennrich said when the plans are submitted, it should be noted that the stormwater should be handled appropriately. Mr. Werth, adjacent landowner also said the culvert should be removed.

No other comments were made.

6. In the Town of Vernon, the following request is being made:

- A. ***The Town of Vernon Plan Commission and Town Board***, requests amendments to various areas in the Town of Vernon. It should be noted that some of the areas in question are located within the Big Bend Extraterritorial Planning Jurisdiction and will have to be approved by the Village of Big Bend in order to be incorporated into this amendment. The changes are located throughout the Town and comprise a number of parcels. A copy of the plan is available at the office of the Waukesha County Parks and Land Use Department, Planning and Zoning Division.

Mr. Mace indicated that a colored map was created by the Planning and Zoning Division condensing all of the areas of change onto one map. He noted that many of the proposed amendments are within the extraterritorial jurisdictional area of the Village of Big Bend. If the Village adopts the amendments they would automatically be part of the Waukesha County Development Plan and that Waukesha County has no specific control in that

area. Mrs. Haukohl asked which of proposed amendments are located outside of the extraterritorial jurisdictional area, to which Mr. Mace replied, one is located in Section 9 (golf course), a cemetery off of Maple Avenue and the others are existing parcels of record along I-43 to be changed from the Suburban II Density Residential category to the LDR category. Mrs. Haukohl objected to Low Density or housing developments being located along I-43. Mr. Mace noted the golf course area is already Recreational, so the change is only to reflect said categories on the Town Plan.

With no further business to come before the Commission or Committee, Mrs. Cummings moved, seconded by Mrs. Gennrich to adjourn at 1:20 p.m.

Respectfully submitted,

Pat Haukohl
Secretary, Park and Planning Commission

Pauline Jaske
Secretary, Land Use, Parks and Environment Committee

MK/PJ:kb